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Attorney General Biden Secures Lower Drug Prices For Delaware Consumers

Wilmington, DE – Delaware Attorney General Beau Biden announced today that the State and Delawareans taking prescription medications will receive more than \$477,000 following a consumer protection investigation of Caremark Rx, L.L.C., one of the nation's largest pharmacy benefits management companies. The settlement, involving 28 states and the District of Columbia, requires Caremark to significantly change its business practices and pay \$38.5 million nationwide.

"This agreement secures lower drug prices for Delaware consumers," Attorney General Joseph R. Biden, III stated. "It ensures that consumers can make informed decisions about the prescription drug choices available to them. Pharmacy benefits management companies have an obligation to obtain products at the lowest price and to fully disclose cost information to consumers."

Delaware will receive \$177,418 to benefit low-income, disabled or elderly consumers taking prescription medications, promote lower drug costs for residents across the state, and provide consumer education. Caremark will also pay \$300,000 to the Delaware Consumer Protection Fund to reimburse the State for fees and costs associated with the investigation. In addition, Caremark will pay up to \$2.5 million nationwide to reimburse patients who incurred expenses related to certain drug switches. Consumers eligible for reimbursement will be contacted directly by Caremark.

Pharmacy benefits management companies enter into contracts with employer health plans to process prescription drug claims for patients, negotiate volume discounts with drug companies, negotiate discounts with retail pharmacies, and dispense drugs through mail order pharmacies. Over the past thirty years, their services have evolved to include complex rebate programs, pharmacy networks, and drug utilization reviews.

The Delaware Department of Justice alleges that Caremark and two of its subsidiaries, Caremark, L.L.C. and CaremarkPCS, L.L.C. (formerly AdvancePCS), engaged in deceptive business practices by encouraging doctors to switch patients to different prescription drugs and representing that patients and/or health plans would save money. However, doctors were not adequately informed of the effect that drug switches would have on costs to patients and health plans. In addition, Caremark did not clearly disclose that it would retain rebates accruing from switches and not pass them directly to client health plans.

The agreement announced today prohibits Caremark from soliciting drug switches when:

- The cost to the patient will be greater than the cost of the originally prescribed drug
- The originally prescribed drug has a generic equivalent and the proposed drug does not
- The originally prescribed drug's patent is expected to expire within six months

The agreement also requires Caremark to:

- Inform patients and prescribers what effect a drug switch will have on a patient's co-payment
- Inform prescribers of Caremark's financial incentives for certain drug switches
- Obtain express, verifiable authorization from the prescriber for all drug switches
- Monitor the effects of drug switches on patient health
- Adopt a code of ethics and professional standards

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